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FISCAL IMPACT STATEMENT

LS 6939

BILL NUMBER: SB 367

NOTE PREPARED: Feb 3, 2014

BILL AMENDED: Feb 3, 2014

SUBJECT: Various tax matters.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Airport Authorities:* This bill changes the schedule of maximum property tax rates that may be imposed by an airport authority. The bill specifies that the maximum tax rate decreases as the assessed value within an airport authority reaches certain thresholds, but not to the extent required by current law. It also specifies a maximum tax rate calculation that provides that the tax rate is not decreased to a level where the airport authority would initially lose tax revenue as the assessed value increases.

Petition to Correct Errors: The bill provides a three year time limit on refunds related to a petition to correct a property tax error.

Maximum Levy Adjustment: This bill makes the 2012 maximum property tax levy for Fairfield Township in Tippecanoe County permanent.

Referenda: For projects that are not school projects, the bill specifies, in determining the ceiling under the controlled project law, that only the amount from bond proceeds are to be counted.

Circuit Breaker: This bill provides for purposes of the property tax circuit breaker credit that a commercial hotel, motel, inn, tourist camp, or tourist cabin is not residential property. It also specifies for purposes of the property tax circuit breaker credit that a single family residence under construction is residential property.

Utilities: The bill provides that public utility property tax returns shall be filed in the manner prescribed by the Department of Local Government Finance (DLGF). It allows a railroad car company to file its return by June 1 (rather than May 1). The bill authorizes a public utility company to file an amended return. It provides

that the penalty assessed on a public utility company for filing a late return may not exceed \$1,000. The bill also provides that if the DLGF assesses the property of a public utility company because the public utility company does not file a return, the public utility company may file a return with the DLGF and the DLGF may amend its assessment.

Exemptions: This bill provides that if, after an assessment date, an exempt property is transferred or its use is changed resulting in its ineligibility for an exemption, the county assessor shall terminate the exemption for that assessment date. It specifies that if the property remains eligible for an exemption following the transfer or change in use, the exemption shall be left in place for that assessment date. The bill provides that for the following assessment date, the person that obtained the exemption or the current owner of the property shall file an application with the county assessor.

Deductions: The bill requires applications for certain property tax deductions to be completed and dated in the calendar year for which the taxpayer wishes to obtain the deduction and to be filed with the county auditor on or before January 5 of the immediately succeeding calendar year.

Budget Information: This bill requires a political subdivision to submit to the DLGF information concerning the adoption of budgets and tax levies using the DLGF's computer gateway. It requires the DLGF to make this information available to taxpayers through its computer gateway and provide a telephone number through which taxpayers may request copies of a political subdivision's information.

The bill specifies that for taxes due and payable in 2015 and 2016, each county shall publish a notice stating the Internet address at which the budget information is available and the telephone number through which taxpayers may request copies of a political subdivision's budget information. It allows counties to seek reimbursement from the political subdivisions in the county for the cost of the notice.

It provides that publication requirements in current law continue through 2015 (along with the new requirements added in the bill concerning submission of budget and levy information to the DLGF's computer gateway).

The bill also provides that if a political subdivision timely submits the budget information to the DLGF's computer gateway but subsequently discovers the information contains a typographical error, the political subdivision may request permission from the DLGF to submit amended information.

Levy Adjustment: This bill specifies the conditions under which the DLGF shall increase a political subdivision's tax levy to an amount that exceeds the amount originally advertised or adopted by the political subdivision.

Tax Credits Not Awarded Beginning After 2016: The bill provides that certain income tax credits (which were reviewed by the Commission on State Tax and Financing Policy in 2012) may not be granted for taxable years beginning after December 31, 2016.

Tax Credits Not Awarded Beginning After 2017 It also provides that certain income tax credits (which were reviewed by the Commission on State Tax and Financing Policy in 2013) may not be granted for taxable years beginning after December 31, 2017.

EDGE Credits: This bill specifies that for the Income Tax Credit for Economic Development for a Growing Economy (EDGE) that the Indiana economic development corporation may not approve an agreement after December 31, 2016.

Neighborhood Assistance Credit: The bill specifies that contributions to organizations that provide services to individuals who are ex-offenders are eligible for the Neighborhood Assistance Credit.

Historic Rehabilitation Income Tax Credit: This bill provides that beginning in 2015, the Office of Community and Rural Affairs administers the Historic Rehabilitation Income Tax Credit.

Industrial Recovery Tax Credit: The bill authorizes a shareholder, partner, or member of a pass through entity to claim the Industrial Recovery Tax Credit.

Lake County Income Tax Credit: This bill makes changes to the income tax credit for property taxes paid on homesteads in Lake County.

Sales Tax: The bill adjusts the sales tax rate for a vehicle purchased in Indiana from the Indiana rate to the sales tax rate of the state of a purchaser if the seller and purchaser confirm that the purchaser will immediately register, license, and title the motor vehicle for use in another state. The bill also extends the sales and use tax exemption for aircraft repair and maintenance.

Additionally, the bill provides a sales tax exemption for labels and signs that are required to be affixed to or displayed with the other tangible personal property for the purpose of complying with any state or federal statute, regulation, or standard.

Electronic Filing: This bill requires electronic filings for cigarette and alcoholic beverage taxes.

Effective Date: Upon passage; January 1, 2014 (retroactive); July 1, 2014; January 1, 2015.

Explanation of State Expenditures: *Utilities:* Utilities file their property tax returns directly with the DLGF. The DLGF makes a unit assessment and then distributes that assessment to local taxing districts based on wire miles, rail miles, etc.

Utilities - Filing Deadline: Currently, railroad car companies must file their returns by May 1. Other utilities must file their returns by March 1. This provision would extend the May 1 filing deadline for railroad car companies to June 1.

Under current law, the DLGF must determine the assessment of each utility by June 1. If railroad car companies take advantage of the later filing date, then the DLGF might not have sufficient time to determine the assessments before the deadline.

Utilities - Filing Extension: Current law allows the DLGF to extend the due date for a utility property tax return. Under this provision, the extension for a railroad car company would be limited to 30 days.

Utilities - Amended Returns: After filing a timely return, this provision would allow a utility 60 days to file an amended return for the following reasons:

- 1) for distribution purposes;
- 2) to correct errors; or
- 3) for any other reason except (a) obsolescence, or (b) the credit to the electric rail service fund.

Budget Information: Under this provision, the DLGF would have to enhance its Gateway information system to accept uploads of proposed budgets and levies from local government units and schools. The system would

have to allow public access, including a search by address.

The DLGF is already engaged in web-based data submission and database access through its Gateway. If the budget information database can be developed as a module on an existing system, the additional state expense could be minimal.

(Revised) *Department of State Revenue (DOR)*: The Department of State Revenue will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes made by the bill. The DOR's current level of resources should be sufficient to implement these changes.

In addition, the provisions of the bill that require the Cigarette Tax, Tobacco Products Tax, and Alcoholic Beverage Taxes to be filed and remitted electronically would increase the DOR's expenses. The DOR does not currently have a system in place to accept electronic documents or payments for these taxes. The cost of purchasing and implementing new software is not currently known, but it could be significant.

Neighborhood Assistance Credit - Indiana Housing and Community Development Authority (IHCDA): The bill would require the IHCDA to modify its Neighborhood Assistance Program (NAP) application process to include programs that provide qualified assistance to ex-offenders who have completed their sentence or are serving a term of probation or parole. The IHCDA's current level of staff and resources should be sufficient to implement the provisions of the bill.

[Currently, NAP credits may only be granted to nonprofit organizations engaged in activities to provide benefits or assistance to economically disadvantaged areas or households.]

Historic Rehabilitation Tax Credits - Office of Community and Rural Affairs (OCRA): The OCRA will incur additional administrative expenses to develop forms, process applications, maintain property records and certify both the Historic Rehabilitation Tax Credit and the Residential Historic Rehabilitation Tax Credit. [Currently, the credits are administered by the Division of Historic Preservation and Archaeology of the Department of Natural Resources.] The transition will occur on January 1, 2015, when all the rules are transferred to OCRA. The OCRA's current level of staff and resources should be sufficient to implement the provisions of the bill.

Explanation of State Revenues: (Revised) *Summary*- This bill sunsets 29 state income tax credits over a two-year period, modifies the Industrial Recovery Tax Credit, expands the Sales and Use Tax exemption for aircraft repair and maintenance, and adjusts the sales tax rate for vehicles purchased that will be immediately registered in another state.

| Provision | Change in Revenue (Million \$) | | | | |
|---|--------------------------------|-----------------|-----------------|---------------|----------------|
| | FY 2015 | FY 2016 | FY 2017 | FY 2018 | FY 2019 |
| Industrial Recovery Credit Modification | \$1.6 | \$1.6 | \$1.6 | \$1.6 | \$1.6 |
| Tax Credits Not Awarded Beginning After 2016 | | | | \$108.7 | \$108.7 |
| Tax Credits Not Awarded Beginning After 2017 | | | | | \$94.5 |
| Sales Tax Exemption for Aircraft Repair and Maintenance | (\$1.1) | (\$1.1) | (\$1.1) | (\$1.1) | (\$1.1) |
| Sales Tax Rate Adjustment for Motor Vehicles | (\$11.4) | (\$11.4) | (\$11.4) | (\$11.4) | (\$11.4) |
| Total | (\$10.9) | (\$10.9) | (\$10.9) | \$97.8 | \$192.3 |

The provision exempting labels and signs that are required to comply with state or federal statutes or regulations from sales tax will cause an indeterminable reduction in sales tax revenue.

The expansion of the Neighborhood Assistance Program to include programs to assist ex-offenders will likely have no fiscal impact. In addition, capping late filing penalties for property tax returns filed by utilities to \$1,000 will likely have a negligible impact on state revenue.

The provisions in the bill related to the tax credit for property taxes paid on homesteads in Lake County will not have any long term impact on the state General Fund. The state General Fund is reimbursed for the revenue loss from the tax credit and expiration of the tax credit will not impact the state General Fund. *(Also See Explanation of Local Revenues)*

Additional Information -

Tax Credits Not Awarded Beginning After 2016 & EDGE Credits: The bill states that new credits will not be awarded, authorized, or granted beginning after December 31, 2016 for the following income tax credits:

| Credit | Estimated Impact |
|--|-------------------------|
| Community Revitalization Enhancement District Credit | \$1,692,000 |
| Earned Income Tax Credit | \$99,135,000 |
| Economic Development for a Growing Economy (EDGE) | \$4,894,000 |
| Enterprise Zone Employment Expense Tax Credit | \$1,061,000 |
| Enterprise Zone Investment Cost Tax Credit. | \$93,000 |
| Enterprise Zone Loan Interest Tax Credit. | \$1,722,000 |
| Headquarters Relocation Tax Credit | \$0 |
| Industrial Recovery Tax Credit | \$71,000 |
| Venture Capital Investment Tax Credit | \$0 |
| Total | \$108,668,000 |

The cessation of granting new credits could potentially increase state General Fund revenue \$108.7 M beginning in FY 2018. The revenue estimate is based on the average credits claimed between 2006 and 2011 and current credit eligibility. It is assumed that some taxpayers will continue to carry forward unused credits. It is important to note that annual revenue impact of sunsetting EDGE could potentially increase to approximately \$50 M over a period of 8 to 10 years. [The bill does not prevent taxpayers from carrying forward unused credits if it was authorized by the specific credit statute.]

Industrial Recovery Tax Credit: Currently, if a pass through entity is awarded an Industrial Recovery Tax Credit (IRTC) and the pass through entity does not have a state income tax liability, there is no mechanism to allow a shareholder, partner, or a member of the pass through entity to claim the credit. This bill provides the authorization for a shareholder, partner, or member of a pass through entity to claim the IRTC. The modification goes into effect in tax year 2014. The fiscal impact will likely begin in FY 2015, but could begin in FY 2014 if taxpayers adjust their quarterly estimated payments.

The bill expands the number of potential credit recipients and increases the likelihood that taxpayers will claim the full amount of IRTC authorized by the Indiana Economic Development Corporation (IEDC). The IEDC approved a total of \$3.5 M in IRTC in 2013. Those investments represent about 0.7% of the average annual fixed structural investments by Indiana manufacturing and warehousing businesses. If the change would allow the IRTC to be used for 1% of the estimated average annual fixed structural investments by manufacturing and warehousing businesses in Indiana, it could increase the IRTC by an estimated additional \$1.6 M a year beginning in FY 2015. The actual revenue loss from the modification of this credit will largely depend on the IEDC's approval process, and each recipient's remaining state income tax liability after the application of other exemptions, deductions, and credits.

Tax Credits Not Awarded Beginning After 2017: The bill states that new credits will not be awarded, authorized, or granted beginning after December 31, 2017, for the following income tax credits.

| Credit | Estimated Impact |
|--|-------------------------|
| Coal Gasification Technology Investment Credit | \$14,250,000 |
| Historic Rehabilitation Tax Credit | \$120,000 |
| Indiana 529 College Savings Contribution Credit | \$33,517,000 |
| Indiana Insurance Guaranty Assoc. Assessment Credit | \$1,220,000 |
| Indiana Comprehensive Health Insurance Assoc. (ICHIA) Credit | \$150,000 |
| Individual Development Account Credit | 95,000 |
| Neighborhood Assistance Credit | \$2,001,000 |
| Research and Development (R&D) Expense Credit | \$30,130,000 |
| Residential Historic Rehabilitation Tax Credit | \$135,000 |
| Prison Investment Credit | \$128,000 |
| School Scholarship Contribution Credit | \$1,231,000 |
| Teacher Summer Employment Credit | \$0 |
| 21 st Century Scholars Program Credit | \$17,000 |
| Unified Tax Credit for the Elderly | \$11,541,000 |
| Total | \$94,535,000 |

The cessation of granting new credits could potentially increase state General Fund revenue \$94.5 M beginning in FY 2019. The revenue estimate is based on the average credits claimed between 2006 and 2011. It is assumed that some taxpayers will continue to carry forward unused credits. [The bill does not prevent taxpayers from carrying forward unused credits if it was authorized by the specific credit statute.]

Utilities: Under current law, a utility that is late in filing a property tax return is subject to a \$100 per day penalty until the return is filed. This provision would cap the penalty at \$1,000. In cases where a utility is more than 10 days late in filing, this provision would reduce the amount of the fine assessed and collected. These fines are deposited into the state General Fund.

Sales Tax Exemption for Aircraft Repair and Maintenance: The bill expands the sales and use tax exemption for property (including materials, parts, equipment, and engines) used in aircraft repair and maintenance to retail merchants that have leased a facility at a public use airport and meet the airport owner's minimum

standards for an aircraft maintenance facility if the work is performed by a mechanic who is certified by the Federal Aviation Administration (FAA). This provision is estimated to reduce sales tax collections by a maximum of \$1.1 M annually.

Under current law, the sales and use tax exemption for aircraft repair and maintenance only applies to a retail merchant if the retail merchant possesses a valid repair station certificate issued by the FAA. The DOR estimates that in CY 2011, 63 FAA-registered repair stations paid about \$1 M to \$1.5 M in sales tax on repair parts.

The estimated impact of a sales and use tax exemption for aircraft parts, engines, and equipment used by aircraft repair facilities that are not FAA-certified is based on U.S. Census Bureau, Economic Census data, and historical sales tax collections for the industry.

There are currently no data available that indicate the amount of repair and maintenance work done by facilities that are not located at public use airports. To the extent that facilities not located at a public use airport pay sales tax on items used for aircraft repair and maintenance, the estimated revenue impact would be lower.

Sales tax revenue is deposited in the state General Fund (98.848%), the Motor Vehicle Highway Account (1%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Sales Tax Rate Adjustment for Motor Vehicles: The bill reduces the sales tax rate for an automobile purchased in Indiana from the 7% Indiana rate to the sales tax rate of the state of the purchaser if the purchaser immediately registers, licenses, and titles the vehicle for use in another state. This provision is expected to primarily affect purchasers from states that border Indiana, all of which have a lower state sales tax rate. The sales tax rate is 6.25% in Illinois, 6% in Kentucky and Michigan, and 5.75% in Ohio. Therefore, this provision could reduce potential sales tax revenue by up to \$11.4 M annually.

The estimated reduction in sales tax revenue is based on the Automobile Dealers Association of Indiana's estimates of new and used car sales in border counties. It is estimated that sales to out-of-state customers comprise about 20% of total new and used car sales in border counties. Automobile sales to out-of-state customers in border counties is approximately \$1.14 B annually. The Indiana sales tax that is due under current law is \$79.46 M. Assuming the rate will be reduced to an average of 6% for out-of-state customers, the sales tax that would be collected under this bill is \$68.11 M.

This estimate does not include sales to out-of-state customers in non-border counties. There is currently no information available regarding such sales. However, to the extent that these sales occur, the estimated reduction in revenue could be greater.

Under current law, all sales of motor vehicles purchased in Indiana are subject to Indiana sales and use tax (unless specifically exempted in statute), including sales where the purchaser intends to immediately register, license, and title the motor vehicle in another state. However, Indiana sales tax does not apply if the dealer or a third party hired by the dealer delivers the vehicle to the purchaser at a point outside Indiana. Because the bill reduces the Indiana sales tax owed for certain automobile purchases, it could potentially encourage more out-of-state consumers to purchase and take possession of vehicles in Indiana. The estimated revenue reduction could therefore be offset to the extent that this occurs.

Sales tax revenue is deposited in the state General Fund (98.848%), the Motor Vehicle Highway Account

(1%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Explanation of Local Expenditures: *Petition to Correct Errors:* Under current law, a taxpayer may file a petition to correct errors for the following reasons:

- 1) The property description was in error;
- 2) The assessment was against the wrong person;
- 3) Taxes were charged more than once in the year;
- 4) There was a mathematical error in computing the tax;
- 5) There was an error in carrying forward delinquent taxes;
- 6) The property taxes were illegal;
- 7) There was a mathematical error in computing the assessment; or
- 8) An exemption, deduction, or credit was not given through an error of omission by an official.

This bill would require that a claim for refund based on the petition to correct errors be filed within three years of the first installment date of the taxes in question.

(Revised) *Budget Information:* Under current law, a taxing unit must publish its potential budget and property tax levy two times each, in two different newspapers. Under this provision, local civil taxing units and school corporations would instead upload their information to the DLGF's Gateway Internet system and, beginning in 2016, would save those publication expenses. A recent LSA study estimated the annual statewide publication expense at about \$428,000.

Taxing units might have to reimburse the county for a share of the cost of a publication directing the reader to the DLGF's Gateway website to review the budget. This notice would be published only for taxes payable in 2015 and 2016. The cost of this publication would be minimal.

The bill also permits, with the DLGF's permission, a taxing unit to correct a typographical error.

Explanation of Local Revenues: *Airport Authorities:* This provision would raise the maximum possible property tax levies for some airport authorities. Under current law, airport authorities' property tax levies for operating and cumulative funds are limited by maximum tax rates. The maximum tax rates are based on five assessed value ranges. When an airport authority's AV rises into the next range, the rate is reduced.

The maximum rates contained in this provision are calculated to give the authority the same levy on the AV amount at the top of the next lowest range, plus a levy on the AV that exceeds the previous range, based on the smaller tax rate in the current range.

In 2013, five covered airport authorities levied \$1.7 M in operating property tax. One authority had no levy. The maximum levy, based on the maximum rate, for these airports was \$3.0 M. This proposal would result in a \$785,000 increase in the maximum levies. In 2013, only one airport authority, Fulton County, levied the maximum at \$327,871. Under this provision, Fulton County Airport Authority's maximum levy would rise by about \$150,000.

Maximum Levy Adjustment: Under this provision, the maximum levy for Fairfield Township (in Tippecanoe County) would not be reduced by 2016 as it would under current law. The levy reduction would have reduced tax rates and possibly reduced circuit breaker losses for intersecting taxing units. However, under this provision, if Fairfield Township chooses to levy at the maximum, the tax rate and circuit breaker reductions would not materialize.

Under current law, Fairfield Township was permitted to request, before September 1, 2011, a maximum levy increase of up to \$130,000 per year. The adjustment may stay in place for up to four years. This bill would make the adjustment permanent.

Referenda: This provision would eliminate the referendum requirement for non-school building projects where the bond amount is less than \$12 M or 1% of AV. Currently, taxing units may optionally specify that the referendum process applies even if it is not required. This option remains.

Under current law, a capital project is considered a controlled project if it will cost the taxing unit more than the lesser of (1) \$2 M or (2) an amount equal to 1% of the unit's total gross AV (if that amount is at least \$1 M). A controlled project for a school building is subject to a referendum if the cost is more than \$10 M. Any other controlled project is subject to referendum if the cost exceeds the lesser of (1) \$12 M or (2) 1% of AV (if that amount is at least \$1 M).

Under the bill, non-school building projects would only be subject to referendum if the amount paid from bond proceeds (rather than the entire cost) would exceed the lesser of (1) \$12 M or (2) 1% of AV.

Circuit Breaker: The bill explicitly states that for the purposes of the property tax circuit breaker credit that a commercial hotel, motel, inn, tourist camp, or tourist cabin is not residential property. This is a clarification to the definition of residential property and should have no fiscal impact.

The bill would also consider a home under construction as residential property. Currently, property is not residential property until there is a residence on the property. This provision could increase circuit breaker losses by an indeterminate, yet probably minimal, amount.

Residential property is eligible for residential LOIT credits in adopting counties and is subject to the 2% property tax cap. Nonresidential property is not eligible for residential LOIT credits and is subject to the 3% property tax cap.

Utilities - Omitted Assessments: When a utility fails to file a property tax return, the DLGF must assess the property based on the best information available. Under current law, this assessment is final. However, under this provision, the utility would have one year in which to file a return. The DLGF would be permitted to amend the assessment.

If the assessment on the utility's return is lower than the DLGF's assessment, then the utility's tax amount would be reduced. If the tax bill had already been paid, then the utility would be entitled to refunds from each county that received distributable AV from that utility. If the bill hasn't been paid, then a part of the original bill would not be collected.

Exemptions: Under current law, a change in ownership has no effect on the status of a property tax exemption if the property continues to meet exemption requirements. Either the previous or new owner must notify the county assessor of the title change or if any of the property is used for a nonexempt purpose. If the county assessor finds that title has changed, the assessor must notify the owner that the exemption will be suspended until the new owner files an affidavit with the assessor.

Under this provision, the county assessor must terminate the exemption if after the assessment date, a property is transferred or its use is changed resulting in its ineligibility for an exemption. However, if the property remains eligible after a transfer or change of use, then the exemption would be left in place for that

assessment date. The owner must file an exemption application for following assessment years. If the county assessor finds that the title or use has changed, the assessor must notify the owner that the exemption will be suspended until the new owner files an affidavit with the assessor. If a refund is due after reinstatement, it must be requested within three years.

Deductions: This provision should have no fiscal impact. It affects the property tax deductions for elderly, blind, disabled, disabled veteran, WWI veteran and spouse, solar device, wind device, coal conversion system, hydroelectric device, geothermal device, coal combustion product, fertilizer storage, model residence, and residence in inventory.

Under current law, these deductions must be filed during the assessment year for which the person is applying. This bill would require that the application be dated during the assessment year but would allow filing as late as January 5. (The homestead standard and mortgage deductions currently have a January 5 file date.)

Levy Adjustment: Under current law, a taxing unit may petition the DLGF to increase its levy if:

- 1) the request is made in writing; and
- 2) either (a) the increase is based on information obtained by the unit after the public hearing, or (b) the increase results from a mathematical error made in determining the levy.

The DLGF has discretion to allow the levy increase.

Under this provision, the DLGF must allow the increase as long as the request was posted to the Gateway system, as long as there are no extenuating circumstances identified by the DLGF. However, the unit would be penalized. The final levy for each affected fund would be reduced by 5% of the difference between the advertised or adopted levy and the increased levy, or \$100,000, whichever is less.

(Revised) Lake County Income Tax Credit: The bill makes the following changes to the income tax credit for property taxes paid on homesteads in Lake County:

- (1) Effective in tax year 2015, it changes the definition of income for purpose of calculating the amount of tax credit from employee and self-employment earned income to Indiana Adjusted Gross Income.
- (2) It provides that starting in FY 2016, the riverboat admissions tax deducted from the Lake County units to offset the revenue loss from the tax credit will be the greater of the total amount of tax credits claimed in a year or \$8.5 M. If the total amount of tax credits claimed in a year is less than \$8.5 M, the amount remaining after the reimbursement to state General Fund is transferred to the Northwest Indiana Regional Development Authority.
- (3) It eliminates the tax credit for property taxes paid after December 31, 2017, and eliminates the deduction of admissions tax from Lake County, East Chicago, Gary, and Hammond to reimburse the state General Fund for tax credits claimed beginning in FY 2020.

Under current law, about \$8.6 M is annually claimed in tax credits and deducted from riverboat admissions tax revenue distributed to Lake County, East Chicago, Gary, and Hammond. The amount deducted from the Lake County units is deposited in the state General Fund. This effectively pays back the state General Fund for the individual income tax revenue loss incurred due to this tax credit. The bill is not estimated to have any impact on the amount of credit claimed in tax year 2014 or the amount of riverboat admission tax revenue deducted from the Lake County units and deposited in the state General Fund in FY 2016 for the

tax year 2014 credits.

Starting tax year 2015, the provision in the bill changing the definition of income would exclude about 13,400 taxpayers who currently qualify for the tax credit using the earned income threshold. This would reduce the total tax credits claimed from an estimated \$8.6 M to \$4.6 M annually in tax year 2015, tax year 2016, and tax year 2017. The bill expires the tax credit effective beginning in tax year 2018.

Under the provisions of the bill, the reduction in tax credit claims will not have a proportionate impact on the amount of riverboat admissions tax revenue deducted from the Lake County units. At least \$8.5 M in total admissions tax will continue to be deducted from the Lake County units until FY 2019. After reimbursing the state General Fund the remaining \$3.9 M will be deposited in the Northwest Indiana Regional Development Authority (NWRDA) in FY 2017, FY 2018, and FY 2019.

The bill expires the tax credit beginning in tax year 2018 and removes the deduction of riverboat admissions tax from the Lake County units starting in FY 2020. This will increase the amount of riverboat admissions tax revenues received by the Lake County units. The increase will be an estimated \$8.6 M annually, with Lake County receiving \$4.3 M and East Chicago, Gary, and Hammond each receiving \$1.43 M.

Sales Tax: Local revenues could decrease to the extent that a local unit receives distributions from the Motor Vehicle Highway Account or the Commuter Rail Service Fund.

State Agencies Affected: Department of Local Government Finance (DLGF); Department of State Revenue; Indiana Economic Development Corporation; Indiana Housing and Community Development Authority; Office of Rural and Community Affairs; Department of Natural Resources; Indiana Department of Corrections; Commission on Higher Education; Indiana Education Savings Authority.

Local Agencies Affected: County assessor; Local civil taxing units and school corporations; Airport authorities; Enterprise Zones; Community Revitalization Enhancement Districts; Lake County; Gary, East Chicago, and Hammond; Northwest Indiana Regional Development Authority.

Information Sources: Local Government Database; LSA Income Tax Database; Indiana Economic Development Corporation, *Transparency Portal-Tax Credits Grants & Loan Contracts*, Retrieved on November 27, 2013 from <https://transparency.iedc.in.gov/Pages/ContractSearch.aspx>; OFMA Income Tax Return Database; Auditor's Database; DOR Sales Tax Data; U.S. Census Bureau; Automobile Dealers Association of Indiana; DOR Information Bulletin #28S, April 2012.

Fiscal Analyst: Bob Sigalow, 317-232-9859; Randhir Jha, 317-232-9556; Lauren Sewell, 317-232-9586; Heath Holloway, 317-232-9867.

Appendix - Tax Credit Explanations

Coal Gasification Technology Investment Credit (IC 6-3.1-29) - The Coal Gasification Technology Investment Tax Credit was established to encourage the use of Indiana coal to produce synthesis gas to generate electricity and for the production of synthesis gas to be used as a substitute for natural gas. The credit is equal to 10% of the first \$500 M in qualified investment in an integrated coal gasification power plant, and 5% of the qualified investment that exceeds \$500 M. The credit for fluidized bed combustion technology is equal to 7% of the qualified investment for the first \$500 M invested, and 3% of the amount of the qualified investment that exceeds \$500 M. Credits are approved by the IEDC Board.

The credit must be taken in 10 annual installments. The annual amount of the credit is equal to the lesser of the total amount of the credit awarded divided by 10, or the greater of the taxpayer's liability for the Utility Receipts Tax, or 25% of the taxpayer's total state tax liability (AGI Tax, Financial Institutions Tax, and Insurance Premiums Tax), multiplied by the percentage of Indiana coal used by the taxpayer in the power plant for the taxable year of the installment.

Taxpayers may assign part or all of the credit to one or more utilities by entering into a contract approved by the Utility Regulatory Commission. A taxpayer who makes a qualified investment in an integrated coal gasification power plant and enters into a contract to sell substitute natural gas to the Indiana Finance Authority, may choose to claim the credit as a refundable tax credit for a period of 20 years.

Community Revitalization Enhancement District Credit (IC 6-3.1-19) - This tax credit is for taxpayers who make qualified investments for the redevelopment or rehabilitation of property located within a community revitalization enhancement district (CRED). The credit equals 25% of the qualified investment. The credit is nonrefundable, but unused credits may be carried forward to subsequent years. Unused credits may not be carried back. The credit may be used to reduce the taxpayer's tax liability under the individual or corporate AGI Tax, Local Option Income Taxes, the Financial Institutions Tax, or the Insurance Premiums Tax. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district.

Earned Income Tax Credit (IC 6-3.1-21) - An individual AGI taxpayer is eligible for the Indiana Earned Income Tax Credit if they are eligible for the federal Earned Income Tax Credit under Section 32 of the Internal Revenue Code. The credit amount depends on the number of qualifying children and the household modified adjusted gross income. The maximum credit for tax year 2012 is \$471. The credit is refundable.

Economic Development for a Growing Economy (EDGE) Credit (IC 6-3.1-13) - The EDGE credit is for businesses that either create new jobs in Indiana, or undertake projects to retain existing jobs in Indiana. Credit amounts are determined by the IEDC, but may not exceed the incremental income tax withholdings of new or retained employees. EDGE credits are awarded for up to 10 years during which time the credit amounts may be used. The IEDC is authorized to make EDGE credits refundable. EDGE credits may be taken against a taxpayer's individual or corporate AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. The aggregate amount of credits awarded for projects to retain existing jobs in Indiana may not exceed \$10 M per year. There is not an aggregate limit on EDGE credits for new jobs.

Enterprise Zone Employment Expense Credit (IC 6-3-3-10) - This tax credit is for employers that hire qualified employees that live and work half of the time in an enterprise zone. The credit is equal to the lesser of 10% multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or \$1,500 multiplied by the number of qualified employees employed by the taxpayer during the taxable year. The credit is nonrefundable, but unused credits may be carried forward for up to 10 years or carried back for up to 3 years. The credit may be applied against individual or corporate AGI Tax, Financial Institutions Tax, or Insurance Premiums Tax liabilities.

Enterprise Zone Investment Cost Credit (IC 6-3.1-10) - The Enterprise Zone Investment Cost Credit is based on qualified investments made within Indiana enterprise zones. It can equal up to a maximum of 30% of the investment, depending on the number of employees, the type of business and the amount of investment in an enterprise zone. The credit is not available to corporate taxpayers or pass-through entities. However, a pass-through entity that invests in the Vigo County enterprise zone may be eligible to claim the credit. The credit is nonrefundable, but unused credits may be carried forward. Unused credits may not be carried back.

This credit may be applied against individual or corporate AGI tax liability.

Enterprise Zone Loan Interest Credit (IC 6-3.1-7) - The Enterprise Zone Loan Interest Credit can be for up to 5% of the interest received from all qualified loans made during a tax year for use in an Indiana enterprise zone. The credit is nonrefundable, but unused credits may be carried forward. Unused credits may not be carried back. This credit may be applied against the individual or corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax.

Headquarters Relocation Credit (IC 6-3.1-30) - The Headquarters Relocation Credit was created as an incentive for businesses to relocate their corporate headquarters, a division or subdivision principal office, or research center to Indiana. An eligible business is a business with at least \$50 M in worldwide revenues in the year prior to applying for the credit, has a qualifying facility located outside Indiana, and has not previously maintained a qualifying facility in Indiana. An eligible business that completes a qualifying project, incurs relocation costs, and employs at least 75 employees in Indiana is entitled to a credit against the taxpayer's state tax liability for the year in which the relocation costs are incurred. The amount of the credit equals up to 50% of the amount of the relocation costs incurred in the taxable year. However, the amount claimed may not result in an Indiana tax liability that is lower than the Indiana tax liability in the taxable year immediately preceding the taxable year in which the taxpayer first incurred the relocation costs. The credit is nonrefundable, but unused credits may be carried forward for up to nine succeeding taxable years. Unused credits may not be carried back. The tax credit may be applied to individual or corporate AGI Tax, Financial Institutions Tax, or Insurance Premiums Tax liabilities.

Historic Rehabilitation Credit (IC 6-3.1-16) - The Historic Rehabilitation Tax Credit is for the rehabilitation of historic property and may be applied against individual or corporate AGI Tax liability. The tax credit is equal to 20% of qualified expenditures as approved by the Department of Natural Resources, and the qualified expenditures must exceed \$10,000. The credit is nonrefundable, but unused credits may be carried forward for up to 15 years. Unused credits may not be carried back. The maximum statewide credit may not exceed \$450,000 for all taxpayers for a fiscal year, except for FY 1998 and FY 1999 when the cap was \$750,000.

Indiana 529 College Savings Account Contribution Credit (IC 6-3-3-12) - This tax credit may be claimed by individual taxpayers who made contributions to an Indiana CollegeChoice 529 Education Savings Plan. The credit is equal to 20% of the taxpayer's annual contributions to an Indiana CollegeChoice 529 Education Savings Plan, up to a maximum credit of \$1,000 annually. The credit is nonrefundable and unused credits may not be carried forward or carried back.

Indiana Comprehensive Health Insurance Association Assessment Credit (IC 27-8-10-2.4) - This tax credit is for insurers that paid assessments to the Indiana Comprehensive Health Insurance Association (ICHIA). The credit may be applied to the AGI Tax or Insurance Premiums Tax liabilities. No new tax credits are allowed for assessments paid to ICHIA after December 31, 2004. However, an insurer that had unused tax credits for assessments to ICHIA before January 1, 2005, is authorized to claim 10% of the unused credits each year beginning in tax year 2007. If, in any tax year, a taxpayer's tax liability is less than the 10% credit amount allowed, those unused credits may be carried forward without being subject to the 10% limit.

Indiana Insurance Guaranty Association Assessment Credit (IC 27-6-8-15) - This tax credit is for insurers that pay assessments to the Indiana Insurance Guaranty Association. The credit may be applied to the AGI Tax or Insurance Premiums Tax liabilities. This credit is limited to 20% of the assessments paid by an insurance company. The credit is nonrefundable, and unused credits may not be carried forward or carried

back.

Individual Development Account Credit (IC 6-3.1-18) - The Individual Development Account Credit is for contributions made to community development corporations that participate in Individual Development Account programs. Individual Development Account programs assist qualifying low-income residents in accumulating savings and building personal finance skills. The credit is equal to 50% of the amount contributed, which must not be less than \$100 and not more than \$50,000. The tax credit is nonrefundable, and unused credits may not be carried forward or carried back. No more than \$200,000 in tax credits may be claimed in any state fiscal year. This tax credit may be applied to individual or corporate AGI Tax or Financial Institutions Tax liabilities.

Industrial Recovery (Dinosaur) Credit (IC 6-3.1-11) - The Industrial Recovery Credit is based on a taxpayer's qualified investment in a vacant industrial facility located in a designated industrial recovery site. The IEDC must approve applications and plans for rehabilitation in order to receive this tax credit. The amount of the credit is equal to the qualified investment made during the taxable year, multiplied by one of the applicable percentages below:

- (1) 15% for a plant located on an industrial recovery site that was placed in service between 15 to 30 years ago;
- (2) 20% for a plant located on an industrial recovery site that was placed in service between 30 to 40 years ago; or
- (3) 25% for a plant located on an industrial recovery site that was placed in service at least 40 years ago.

The tax credit is nonrefundable, but unused credits may be carried forward. Unused credits may not be carried back. The tax credit may be applied against individual or corporate AGI Tax, Financial Institutions Tax, and Insurance Premiums Tax liabilities.

Lake County Homeowner's Property Tax Credit (IC 6-3.1-20) - The Lake County Homeowner's Property Tax Credit is for property taxes paid by an individual taxpayer on a home the taxpayer owns and resides within Lake County. The credit is refundable. To qualify for the property tax credit the taxpayer's earned income must be less than \$18,600 and the taxpayer may not claim the income tax deduction for property taxes paid on the home. If the taxpayer's earned income is \$18,000 or less, the credit is equal to the lesser of \$300 or the amount of property taxes paid on the taxpayer's home. The tax credit phases out for taxpayers with earned income exceeding \$18,000. Under the phaseout, for every dollar of earned income exceeding \$18,000, the tax credit is reduced by \$0.50 until the credit is \$0 for taxpayers with an earned income of at least \$18,600.

The entire cost of this credit is reimbursed to the state General Fund from Riverboat Admission Tax revenue distributed to Lake County (50%), East Chicago (16.67%), Gary (16.67%), and Hammond (16.67%).

Neighborhood Assistance Credit (IC 6-3.1-9) - The Neighborhood Assistance Credit is available to taxpayers that contribute to qualifying nonprofit organizations for approved projects that assist people living in economically disadvantaged areas. This credit is equal to 50% of the amount contributed up to a maximum credit of \$25,000 in any taxable year. The credit is nonrefundable, and unused credits may not be carried forward or carried back. The credit can be applied against individual or corporate AGI Tax or Financial Institutions Tax liabilities. The total amount of neighborhood assistance credit allowed to all taxpayers in any state fiscal year is limited to \$2.5 M.

Prison Investment Credit (IC 6-3.1-6) - The Prison Investment Credit is for taxpayers that invest in Indiana

prisons to create jobs for prisoners. The credit is equal to 50% of any capital investment and 25% of any wages paid by a business that hires adult offenders within correctional facilities. The credit is nonrefundable, and unused credits may not be carried forward or carried back. The maximum tax credit per employer is \$100,000. This tax credit may be applied to individual or corporate AGI Tax liability.

Research Expense Credit (IC 6-3.1-4) - The Research Expense Credit is available for taxpayers that have increased research activities conducted in Indiana. The credit is calculated based on the increased expenses a taxpayer incurred over their base-year expenditures. The base-year expenditures are measured for taxable years beginning after December 31, 1989, and are equal to the federal base amount as defined in the Internal Revenue Code (2001). The base-year expenses may not be less than 50% of the current tax year's qualified research expenses. The credit is nonrefundable, but unused credits may be carried forward for up to 10 years. Unused credits may not be carried back.

A taxpayer may elect an alternative method to calculate the Research Expense Tax Credit for Indiana qualified research expenses incurred after December 31, 2009. The alternative calculation of the credit is equal to 10% of the difference between: (1) the taxpayer's current-year Indiana qualified research expenses; and (2) 50% of the taxpayer's average Indiana qualified research expenses for the three preceding taxable years. If the taxpayer did not have Indiana qualified research expenses in any one of the three preceding taxable years, then the amount of the credit is equal to 5% of the taxpayer's Indiana qualified research expenses for the taxable year. The alternative calculation method is similar to an alternative calculation method allowed for the federal income tax credit for increasing research activities.

Residential Historic Rehabilitation Credit (IC 6-3.1-22) - The Residential Historic Rehabilitation Credit for individual taxpayers is equal to 20% of qualified expenditures as approved by the Department of Natural Resources for the preservation or rehabilitation of a historic building that is the taxpayer's principal residence. Qualified expenditures for the historic property must exceed \$10,000. The credit is nonrefundable, but unused credits may be carried forward for up to 15 years. Unused credits may not be carried back. The maximum statewide credit may not exceed \$250,000 in a state fiscal year. The tax credit may be claimed against individual AGI Tax liabilities.

School Scholarship Contribution Credit (IC 6-3.1-30.5) - The School Scholarship Contribution Credit is equal to 50% of the contributions made by an individual or corporate taxpayer to a nonprofit K-12 school scholarship-generating organization. The credit began in tax year 2010. The tax credit is nonrefundable, and unused credits may be carried forward for up to nine years for contributions made after December 31, 2012. Unused credits may not be carried back. Total credits allowed may not exceed \$2.5 M per fiscal year before FY 2012, \$5 M per fiscal year in FY 2012 and FY 2013, and \$7.5 M per fiscal year beginning in FY 2014. The tax credit may be applied to individual or corporate AGI Tax, Financial Institutions Tax, or Insurance Premiums Tax liabilities.

Teacher Summer Employment Credit (IC 6-3.1-2) - The Teacher Summer Employment Credit is for taxpayers that hire designated shortage certified teachers during the summer vacation. The qualified positions must be certified by the Department of Education. The tax credit is equal to the lesser of \$2,500, or 50% of the amount of compensation paid to the eligible teacher by the taxpayer during the taxable year. The credit is nonrefundable and unused credits may not be carried forward or carried back. Total tax credits may not exceed \$500,000 for all taxpayers per fiscal year. The credit may be applied to AGI Tax or Financial Institutions Tax liabilities. New credits may not be awarded after December 31, 2011.

21st Century Scholars Program Credit (IC 6-3-3-5.1) - The 21st Century Scholars Program Credit is for

contributions made to the 21st Century Scholars Program Support Fund by individual or corporate AGI taxpayers. The credit is equal to 50% of the contributions made by a taxpayer during a taxable year, up to a maximum credit of \$100 for a single return and \$200 for a joint return. For corporations, the tax credit amount may not exceed the lesser of either 10% of the corporation's total AGI Tax for the taxable year or \$1,000. The credit is nonrefundable and unused credits may not be carried forward or carried back.

Unified Tax Credit for Elderly (IC 6-3-3-9) - An individual AGI taxpayer is eligible for the Unified Tax Credit for the Elderly if they meet all of the following requirements: (1) the taxpayer and/or spouse must be at least 65 years old by the end of the taxable year; (2) the federal AGI must be less than \$10,000; and (3) the qualifying taxpayer and/or spouse must have been a resident of Indiana at least 6 months during the taxable year. The credit is refundable, but may not be carried forward or carried back.

The amount of the credit is based upon income and marital status. If the taxpayer is filing a single return and is age 65 or older, or if the taxpayer is filing a joint return and only the taxpayer or spouse is over 65, then the credit will be calculated as follows:

| Income Amount | Credit Amount |
|-----------------------------|---------------|
| Less than \$1,000 | \$100 |
| Between \$1,000 and \$2,999 | \$ 50 |
| Between \$3,000 and \$9,999 | \$ 40 |

If the taxpayer and spouse are filing a joint return and both are 65 or older, then the credit will be calculated as follows:

| Income Amount | Credit Amount |
|-----------------------------|---------------|
| Less than \$1,000 | \$140 |
| Between \$1,000 and \$2,999 | \$ 90 |
| Between \$3,000 and \$9,999 | \$ 80 |

Venture Capital Investment Credit (IC 6-3.1-24) - The Venture Capital Investment Credit is equal to 20% of annual qualified venture capital investment made by a taxpayer up to a maximum credit of \$1 M. The IEDC certifies businesses to receive creditable venture capital investment. The investment must be made between 2004 and 2016. Total new credits awarded may not exceed \$12.5 M annually (\$10 M in 2004). The credit is nonrefundable, but unused credits may be carried forward for up to 5 years. Unused credits may not be carried back. The credit may be applied to individual or corporate AGI Tax, Financial Institutions Tax, Insurance Premiums Tax, or Sales Tax liabilities.